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Comptroller of the Currency  
Administrator of National Banks

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Northeastern District  
1114 Avenue of the Americas, Suite 3900  
New York, NY 10036

September 30, 1997

**Conditional Approval #256  
October 1997**

Mr. Eric P. Hayes  
Vice President & Senior Trust Counsel  
State Street Bank and Trust Company  
M-3, 225 Franklin Street  
Boston, Massachusetts 02110

Re:           Application to charter a national trust bank, State Street Global Advisors, National Association, Naples, Florida, as an operating subsidiary of State Street Bank and Trust Company, Boston, Massachusetts.  
ACN 97 NE 01 018

Dear Mr. Hayes:

The Office of the Comptroller of the Currency (OCC) has reviewed your application to establish a new national trust bank with the title of State Street Global Advisors, National Association ("Bank"). The Bank will engage solely in Fiduciary activities and will be an operating subsidiary of State Street Bank and Trust Company, Boston, Massachusetts. After a thorough evaluation of all data available to the OCC, we found that your proposal met the requirements for preliminary conditional approval.

We have based our decision to grant preliminary conditional approval on the information provided in your application, other correspondence between the applicant and the OCC, and other information available to the OCC.

We also made our decision to grant preliminary conditional approval with the understanding that the proposed national trust bank will not be FDIC insured and the expectation that the proposed Bank will become a member of the Federal Reserve System.

Major deviations from the operating plan or changes in the composition of the board of directors, ownership, or chief executive officers that the OCC has not approved may result in withdrawal of preliminary conditional approval.

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The approval is subject to the following conditions to comply with statutory and regulatory requirements.

1. The Bank shall ensure that its operations are limited to that of a trust bank and that deposits other than trust funds are not accepted.
2. The limitations of the Bank's activities must be fully enumerated in the Bank's Articles of Association. Specifically, the articles must clearly state that:
  - o The business of the association will be limited to that of a national trust bank.
  - o The Bank must obtain the prior written approval of the OCC before amending its Articles of Association to expand the scope of its activities and services.

Please be advised that the above listed conditions of this approval shall be deemed to be conditions "imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 U.S.C. 1818(b)(1). The conditions are enforceable under 12 U.S.C. 1818 as specifically applied to uninsured national banking associations under section 1818(b)(5).

You may now form a body corporate and begin organizing the Bank, as soon as you adopt and forward the Articles of Association and an Organization Certificate to the Northeastern District Office. As a body corporate, you may begin operating as a business; but you may not begin the business of banking or accept any appointment as a fiduciary until you fulfill all requirements for a bank in organization and final approval is granted. (see Corporate Organization Booklet enclosed)

Enclosed are procedural requirements that must be met before the Bank will be allowed to commence business. Please note that some of the requirements referenced in the enclosed package may not be applicable since the Bank's activities will be limited to those of a national trust bank. It is the responsibility of management to ensure that the applicable policies and procedures are established and adopted by the Board of Directors before the Bank commences business.

We require that, prior to opening, the Bank engage an independent, external auditor to perform an audit according to generally accepted auditing standards of sufficient scope to enable the auditor to render an opinion on the financial statements of the Bank (or consolidated holding

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company), taken as a whole. The audit period shall commence on the date that the organizing group forms a body corporate and may end on any calendar quarter-end no later than 12 months after the Bank opens. We expect that such audits will be performed on an annual basis for at least five years following commencements of operations. The Bank will also need to have an annual independent fiduciary audit as required in 12 C.F.R. 9. Engagement of an auditor will be verified during the pre-opening examination.

The OCC has no objection to Chris A. Hynes serving as Chairman, President, and CEO of the proposed bank.

Approval is also granted to your request for a waiver of the residency requirement imposed by 12 U.S.C. 72 that at least a majority of this bank's directors, for one year immediately preceding their election and during their continuance in office, reside in Florida or within 100 miles of the bank. Section 2241 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 revised 12 U.S.C. 72 to authorize the Comptroller, in his discretion, to grant a waiver of the requirement of residency. For the reasons stated below, the Office of the Comptroller of the Currency ("OCC") hereby grants your request for a waiver of the residency requirement.

As a result of the 1996 amendment, section 72 now permits the OCC to waive the requirement of residency for a majority of directors of a specific bank. Section 72 has not historically nor does it now require OCC approval or consideration of specific individuals to serve as directors, either generally or in the context of a waiver request<sup>1</sup>. The responsibility for selecting qualified individuals to serve on the bank's Board of Directors rests with the shareholders or, in the case of an interim appointment between shareholders' meetings, with the Board of Directors of the Bank. See, e.g., OCC Interpretive Letter No. 279, reprinted in [1983-1984 Transfer Binder] Fed. Banking L. Rep. (CCH) 85, 443 (Jan. 25, 1984). Of primary concern to the OCC is that the bank have the required number of directors pursuant to 12.U.S.C. 71a, be well managed and operate in a safe and sound manner.

You base your waiver request on the bank's necessity for selecting as directors experienced individuals in various operational lines of the bank's national trust business who may not meet the section 72 geographic residency requirement. Absent a waiver, therefore, these experienced individuals are effectively disqualified from serving on the Board of Directors or the bank must inefficiently and unnecessarily expand the size of the Board to meet the statute's requirements.

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<sup>1</sup>Under certain circumstances, e.g., with respect to a bank's proposed changes in directors and senior executive officers pursuant to 12 U.S.C. 1831i and 12 CFR 5.51, the OCC will evaluate an individual or individuals who are proposed to serve on a bank's Board of Directors.

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Based on our experience supervising the subsidiaries of State Street Bank and Trust Company, we conclude that granting the waiver will enhance the expertise and effectiveness of the Board in specific lines of business and substantive areas of the bank's operations. A waiver will also promote the safety and soundness of the bank's operations without introducing the inefficient maintenance of an expanded Board only to meet a statutory requirement or imposing the regulatory burden on the bank seeking a waiver each time there is need to add or replace a director.

Approval of your waiver request does not alter the citizenship and stock ownership requirements for such individuals to serve as directors on the Board. Bank counsel should review the qualifications of the directors nominated to ensure compliance with the requirements contained in 12 U.S.C. 72 in these areas. See also 12 U.S.C. 73 and 12 C.F.R. 7.2005, 7.2007 and 7.2008. Please understand that the OCC reserves the right to withdraw this waiver at any time.

The Articles of Association and Organizational Certificate should be forwarded to the OCC within 30 days.

The OCC will send you an appropriate set of OCC handbooks, manuals, issuances, and selected other publications.

Any questions concerning this preliminary approval should be directed to Sandya Reddy, Corporate Analyst, at (212) 790-4055.

Very truly yours,

/s/

Michael G. Tiscia  
Licensing Manager

Enclosures

Corporate Organization Booklet  
Minimum Policies and Procedures